

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CAROL LYNN B. KENDALL FALKINER,

Plaintiff,

v.

Civil Action No: 2:10-cv-475

ONEWEST BANK FSB

and

EQUITY TRUSTEES, LLC,

Defendants.

**DEFENDANT ONEWEST BANK, FSB'S
MOTION TO DISMISS**

NOW COMES Defendant OneWest Bank FSB ("OWB"), by counsel, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves to dismiss all claims in the Petition filed by Plaintiff against them in the above-captioned action. In support of its motion, OWB refers this Court to its memorandum in support, filed simultaneously herewith.

WHEREFORE, for the reasons stated in the accompanying memorandum of law in support of this motion to dismiss, OWB respectfully requests that this Court (1) grant its motion to dismiss; (2) dismiss the Petition with prejudice; (3) award OWB its attorneys' fees and costs incurred in defending this matter; and (4) award any other relief that this Court deems just and proper.

Respectfully submitted,

ONE WEST BANK FSB

By Counsel

/s/

Robert W. McFarland (VSB No. 24021)

Erin Q. Ashcroft (VSB No. 74636)

Virginia Bar No. 74639

Attorney for One West Bank FSB

McGuireWoods LLP

101 W. Main Street, Ste. 9000

Norfolk, VA 23510

Tel: 757/640-3733

Fax: 757/670-3961

eashcroft@mcguirewoods.com

Attorneys for OneWest Bank FSB

CERTIFICATE OF SERVICE

I certify that on October 4, 2010, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to

Joseph M. LeNoir
Bierman, Geesing, Ward & Wood, LLC
8100 Three Chopt Road #240
Richmond, VA 23229
Joseph.lenoir@bgww-llc.com

and sent true copies via U.S. Mail to the following:

Olga Ford, Esq.
197 Heather Glen Rd.
Sterling, Virginia 20165
olgaford@gmail.com

Carole Lynn B. Kendall Falkiner
1322 Sussex Place
Norfolk, Virginia 23508

_____/s/_____
Robert W. McFarland (VSB No. 24021)
Erin Q. Ashcroft (VSB No. 74636)
Virginia Bar No. 74639
Attorney for One West Bank FSB
McGuireWoods LLP
101 W. Main Street, Ste. 9000
Norfolk, VA 23510
Tel: 757/640-3733
Fax: 757/670-3961
eashcroft@mcguirewoods.com